Supreme Court, U.S.
FILED

011760 MAY 29 2001

OFFICE OF THE CLERK

No._____

IN THE

SUPREME COURT OF THE UNITED STATES

SHARON HUGHES MENDONCA
Petitioner

v.

AMY O'BRIEN WINTERSEN
Defendant

On Petition For Writ of certiorari
To the United States Court of
Appeals For the First Circuit

PETITION FOR WRIT OF CERTIORARI

Sharon Hughes Mendonca
P. O. Box 390944
Cambridge MA, 02139

24 pgs

QUESTION(S) PRESENTED

Whether the U. S. Court of Appeals for the First Circuit a proposed per curiam opinion affirmed pursuant to First Circuit Local Rule 27(c) Applicable to this case.

PARTIES TO THE PROCEEDINGS

List in addition to the party named do not appear in the caption of the case on cover page, Robin A. Maher and Commercial Insurance Company.

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I

The U. S. Court of Appeals for the First Circuit a proposed per curiam opinion affirmed pursuant to First Circuit Local Rule 27(c) conflicting with Applicable Statutory Provision of Law of Federal Rule Appellate Procedure Rule 27(C)(iii).

II

There is the rebuttal witness existence discovered Medical damages evidence records caused from the impact from the motor vehicle accident genuine issue of material fact pursuant to F. R. C. P. Rule 56(b) due to the finding fact verdict of the jury for the plaintiff the petitioner former attorney Mr. Stephen Fiore did not justify the physical evidence recognized by the State Superior Court trial by questioning Mr. Fiore at the time of the trial proceeding before sidebar conference upon sidebar conference respondent attorney Ms. Maher presented irrelevant exhibits the State Superior Court trial decision stated okay.

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OPINIONS BELOW

The opinion of the U. S. Court of Appeals for the First Circuit is reprinted in the Appendix (A) is reported December 27, 1999, February 8, 2000, and March 4, 2002.

The opinion of the U. S. District Court trial is reprinted in the Appendix (B) is reported July 27, 1999.

The judgment pursuant to Rule 58 of the State District Court trial finding fact Conclusions of Law is reprinted in the Appendix (C) is reported January 15, 1997.

The opinion of the State Superior Court trial is reprinted in the Appendix (D) is reported December 5, 1997.

The jury verdict is reprinted in the Appendix (E) is reported December 5, 1997.

STATEMENT OF JURISDICTION

Following a Motion to Reopen, the U. S. Court of Appeals for the First Circuit order denied on March 4, 2002, and this petition for a writ of certiorari has been filed within 90 days of that date. The Court has jurisdiction to review the U. S. Court of Appeals for the First Circuit's decision under 28 U. S. C. § 1254.

STATUTORY PROVISIONS INVOLVED

First Circuit Local Rule 27(c) at any time, on such notice as the Court may order, on motion of appellee or sua sponte, the Court may dismiss the appeal or other request for relief or affirm and enforce the judgment or order below if the Court lacks jurisdiction, or if it shall clearly appear that no substantial question is presented. In case of obvious error the Court may similarly, reverse. Motions for such relief should be promptly filed when the occasion appears, and must be accompanied by four copies of a memorandum or brief.

STATEMENT OF THE CASE

December 27, 1999, U. S. Court of Appeals for the First Circuit a proposed per curiam opinion affirmed pursuant to First Circuit Local Rule 27 (c). Appendix (A) (pg. 7 and 8). February 8, 2000, order denied timely Petition for Rehearing. (pg. 9 and 10.). March 4, 2002 order denied Motion to Reopen. (pg. 11 and 12.).

July 27, 1999, U. S. District Court trial a proposed sua sponte opinion order dismiss the petitioner's case. Appendix (B) (pg. 13.).

January 15, 1997, State District Court trial finding fact conclusions of law and Judgment pursuant to Rule (58) Appendix (C) (pg. 14.).

December 5, 1997, State Superior Court trial Tape 2A- to offer as the next Exhibit the Somerville Hospital records. Mr. FIORE: I would object to and to clarify which records are which. As to Exhibit number. THE: COURT: It doesn't have an Exhibit Number. Mr. FIORE: As the one

proposed to be marked I would argue to the relevance of the record. THE: COURT: Okay, why don't you come to the sidebar. CONFERENCE AT THE BENCH. (Recording Difficulties) MS. MAHER: Cambridge Hospital is Exhibit 5 and Somerville Hospital is Exhibit 6. (Exhibit 6, Somerville Hospital Records, marked Into Evidence.) THE: COURT: Okay. COURT: REPORTER: Exhibit 5, Cambridge Hospital records and Exhibit 6. Appendix (D) (pg.15 and 16.)

December 5, 1997, finding verdict of the jury for the plaintiff. The jury finds for the plaintiff, Sharon Hughes Mendonca and assesses damage in zero Dollars. Appendix (E) (pg. 17.)

REASONS FOR GRANTING THE WRIT

I

The writ of certiorari should be granted due to, the U. S. Court of Appeals for the First Circuit a proposed per curiam opinion affirmed pursuant to First Circuit Local Rule 27(c) Appendix (A) (pg. 7 and 8.) date December 27, 1999, is not required. (see) Applicable Statutory Provision of Law of Federal Rule Appellate Procedure Rule 27(C)(iii) cited obviously.

II

The writ of certiorari should be granted due to, there is the rebuttal witness existence discovered Medical damages evidence records caused from the impact from the motor vehicle accident genuine issue of material fact pursuant to F. R. C. P. Rule 56 (b) due to the finding fact verdict of the jury for the plaintiff the petitioner former attorney Mr. Stephen Foire did not justify the physical evidence recognized by the State Superior Court trial by questioning Mr. Foire at the time of the trial proceeding before sidebar conference upon sidebar conference respondent attorney Ms. Maher presented

irrelevant exhibits the State Superior Court trial decision stated okay. (see) Appendix (D) (pg. 15.) and 16.). and Appendix (E) (pg. 17.)

CONCLUSION

The Court should review this case to resolve a conflicting issue among the U. S. Court of Appeals for the First Circuit a proposed per curiam opinion affirmed pursuant to First Circuit Local Rule 27(c) and to clarify the basis and extent of Applicable Statutory Provision of Law of Federal Rule Appellate Procedure Rule 27(C)(iii).

Respectfully Submitted,

Sharon H. Mendonca

Sharon Hughes Mendonca

APPENDIX (A)

NOT FOR PUBLICATION-NOT TO BE CITED PRECEDENT
United States Court of Appeals
For the First Circuit

No. 99-1905

SHARON HUGHES MENDONCA
Plaintiff, Appellant

v.

AMY O'BRIEN WINTERSEN

Defendant, Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Edward F. Harrington, U. S. District Judge]

Before

APPENDIX (A)

Selya, Circuit Judge,
Cyr, Senior Circuit Judge,
and Lipez, Circuit Judge.

Sharon Hughes Mendonca on brief pro se.
Robin Aaronson Maher and Segalini & Neville on brief for appellee.

December 27, 1999

Per Curiam. After a thorough review of the records and submissions of the parties, we affirm for the reason stated by the district court in its Order dated July 27, 1999. Furthermore, the district court also lacked subject matter jurisdiction under the Rooker-Feldman doctrine. See District of Columbia Court of Appeals v. Feldman, 460 U. S. 462, 476 (1983) ("[A] United States District Court has no authority to review final judgments of state court in judicial proceedings. "); Rooker v. Fidelity Trust Co., 263 U. S. 413, 415-16 (1923) (same).

Affirmed. 1st Cir. Loc. R. 27(c).

APPENDIX (A)

United States Court of Appeals
For the First Circuit

No. 99-1905

SHARON HUGHES MENDONCA

Plaintiff, Appellant,

v.

AMY O'BRIEN WINTERSEN,

Defendant, Appellee.

Before

Selya, Circuit Judge,
Cyr, Senior Circuit Judge,
and Lipez, Circuit Judge.

APPENDIX (A)

ORDER OF COURT

Entered: February 8, 2 000

The motion for reconsideration is denied. The Federal courts simply have no jurisdiction to review the State court 's decisions, no matter how inadequate appellant claims they may be, nor to adjudicate any state law claim between citizens of Massachusetts.

It is so ordered.

By the Court:
PHOEBE MORSE
Clerk.

cc: Ms. Maher, Ms Mendonca

APPENDIX (A)

United States Court of Appeals
For the First Circuit

No. 99-1905

SHARON HUGHES MENDONCA,

Plaintiff, Appellant,

v.

AMY O'BRIEN WINTERSEN

Defendant, Appellee.

Before

Selya, Circuit Judge,
Cyr, Senior Circuit Judge,
and Lipez, Circuit Judge.

APPENDIX (A)

ORDER OF COURT

Entered: March 4, 2002

Appellant 's " Petition to Reopen, " which we treat as a request to recall the mandate, is denied, as appellant has failed to show any exceptional circumstances which would justify such an extraordinary step. See Boston & Maine Corp. v. Town of Hampton, 7 F.3d 281, 282-83 (1st Cir.1993).

By the Court:
Richard Cushing Donovan, Clerk
JANICE M. O'NEIL
By:_____
Chief Deputy Clerk.

[cc: Ms. Hughes-Mendonca & Ms. Maher]

APPENDIX (B)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Sharon Mendonca
Plaintiff

v. CIVIL ACTION NO: 99-11408-EFH

Amy O'Brien Wintersen
Defendant.

ORDER OF DISMISSAL

July 27, 1999

HARRINGTON, D.J.

Upon a review of the record in this case, the Court sua sponte dismisses plaintiff's complaint for product liability on the ground that the Court lacks jurisdiction over the cause of action, in that both the plaintiff and the defendant are residents of the Commonwealth of Massachusetts.

SO ORDERED. EDWARD F. HARRINGTON
United States District Judge

APPENDIX (C)

COMMONWEALTH OF MASSACHUSETTS
District Court Department of the Trial Court
Cambridge Division

Sharon Mendonca
plaintiff
v.
Amy P. O'Brien Wintersen
Defendant Civil No. 1336-94

JUDGMENT
(Rule 58)

Upon Findings of Fact, Conclusions of Law and Judgment (See Findings) (it has been ORDERED and ADJUDGED by the court, (it is recorded by the clerk without court order.) Judge Brant

X that the plaintiff Sharon Mendonca recover

of the defendant Amy P. O'Brien Wintersen

Rubi Moscorn
Clerk Magistrate

Judgment entered on docket on January 15, 1997.

APPENDIX (D)

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

Superior Court Department of the Trial Court Civil Action No. 97-512

SHARON MENDONCA

V.

AMY O'BRIEN

Before: BOTSFORD, J,
December 5, 1997

TRANSCRIPT OF

TRIAL PROCEEDINGS

APPEARANCES:
Stephen M. Fiore, Esq Rainer and Rainier, 165 Franklin Street, Boston Massachusetts, on behalf of the plaintiff.

Robin A. Maher, Esq; Segaini and Neville, 411 Waverly Oaks Road, Waltham, Ma, on behalf of the Defendant.

E. Joan Cave Official Court Reporter

APPENDIX (D)

Tap 2A

To offer as the next Exhibit the Somerville Hospital Records.

MR. FIORE: I would object to- and to clarify which. As to Exhibit Number- THE COURT: It doesn't have an Exhibit Number. MR. FIORE: As the one proposed to be marked I would argue to the relevance of the record. THE COURT: Okay, why don't you come to the sidebar.

CONFERENCE AT THE BENCH
(Recording Difficulties)

MS. MAHER: Cambridge Hospital is Exhibit 5 and Somerville Hospital is Exhibit 6.

(Exhibit 6, Somerville Hospital Records, marked Into Evidence.)
THE COURT: Okay.

COURT REPORTER: Exhibit 5, Cambridge Hospital records and Exhibit 6.

APPENDIX (E)

Mendonca v. O'Brien Tape 3A

(Recess)

(Jurors in at 3:10)

COURT OFFICER: Jurors entering, all rise, please. Jurors remain standing, all others be seated. Court is now in session. THE CLERK: May I inquire, your Honor? THE COURT : Yes. THE CLERK: Madam Forelady and Foreman, have at least ten members of this panel agreed upon a verdict? THE FORELADY: Yes. THE CLERK: May I have it please. Members of the jury, you will hearken to your verdict as recorded by the court, Middlesex Superior Court case 97-512, Sharon Mendonca vs. Amy P. O'Brien . Verdict of the jury for the plaintiff. The jury finds for the plaintiff, Sharon Mendonca and assesses damage in zero dollars. So say you, Madam Forelady? THE FORELADY: Yes.